

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Jason R. Johnson,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0446
Parcel No. 100/10716-000-000

On December 21, 2011, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellant, Jason R. Johnson, designated Robert Johnson, his father, to represent him and did not appear for the hearing. The Polk County Board of Review designated Assistant County Attorney Ralph Marasco, Jr. as its counsel and he appeared at hearing on behalf of the Board of Review. The Appeal Board now having examined the entire record, having heard the testimony, and being fully advised, finds:

Findings of Fact

Jason R. Johnson, owner of property located at 3913 Madison Avenue, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. The real estate was classified residential for the January 1, 2011, assessment and valued at \$115,800; representing \$27,800 in land value and \$88,000 in dwelling value.

Johnson protested to the Board of Review on the ground that the property was assessed for more than authorized by law under Iowa Code section 441.37(1)(b). Johnson also made a comment on his petition in the area reserved for claiming an error in the assessment, it referenced market value and structure damage and referred to an attached letter. The letter discussed the property's issue with flooding and the structural damage that has resulted. It reiterates Johnson's belief that this impacts the

market value of the property. We find that rather than a claim of error, this statement was actually a claim of market value. In response the Board of Review granted partial relief stating, "assessed value was changed because the market data did not support the assessment." The Board of Review changed the assessed value to \$101,000; representing \$27,800 in land value and \$73,200 dwelling value by applying a 5% functional obsolescence adjustment to the improvements.

Johnson then appealed to this Board on the same ground. Johnson values the property at \$90,000, which he allocates \$27,800 to land value and \$62,200 to dwelling value.

The subject property consists of a one-story, metal-sided dwelling having 960 square feet built in 1955. It is considered to be in normal condition. The property has a 240 square-foot attached garage. The site consists of 0.187 acres.

Although Johnson did not appear at our hearing, reviewing the Certified Record, Johnson submitted a letter to the Board of Review regarding the flooding of his basement. Johnson stated his basement has been flooded at four different times between August 2008 and August 2010 and that this can be confirmed with the Des Moines Department of Public Works. The result is bowed and caving basement walls. He believes the house is in no condition to sell. He also claimed the cost to repair was \$11,500 to \$20,000. While not completely clear, it appears this cost is associated with fixing walls that started to bulge and cave in, and does not include loss of personal property.

The Board of Review submitted an exhibit at hearing that listed sales of properties in Johnson's neighborhood built between 1950 and 1960 with between 900-1000 square feet. The Exhibit merely lists the properties, their sale date, sales price, the year they were built, and their square footage. The properties lack description and there are no adjustments made to them to compare them to the subject property. We note the sales prices per square foot ranged from \$54.00 to \$143.75, with a median of \$114 per square foot. The subject is assessed at \$105.21 per square foot, within the range and below the median. We give the data no weight.

The only evidence Johnson provided was his statement regarding the flooding and condition of his basement. Although the flooding could impact the value of a property, it appears the Board of Review at least considered this factor since the Appraiser's Analysis recommended a change in the assessment for the flooding by removing the basement finish and adding functional obsolescence for the foundation. After reviewing all the evidence, we find Johnson failed to provide persuasive evidence in support of his market value claim.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).


In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

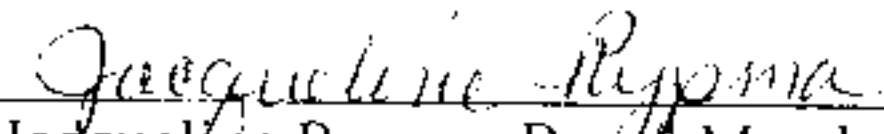
In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Johnson's evidence did not establish that the property is over assessed or a market value for the subject property.

The evidence in the record does not support the claim brought before this Board. We, therefore, affirm the assessment of the subject property located at 3913 Madison Avenue, Des Moines, Iowa, as determined by the Polk County Board of Review as of January 1, 2011.

THE APPEAL BOARD ORDERS the assessment of the Johnson property at 3913 Madison Avenue, Des Moines, Iowa, determined by the Polk County Board of Review is affirmed.

Dated this 9 day of March 2012.


Richard Stradley, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>3-9</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand-Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	